

Committee Secretary  
Senate Standing Committees on Rural and Regional Affairs and Transport  
Parliament House  
Canberra ACT 2600

## **SUBMISSION CONCERNING MOTOR VEHICLE STANDARDS BILL 2018**

Dear Sirs.

I have a long standing interest in the outcome of the subject bill – not a commercial interest, but as a former regulator who wants to see an optimum solution for Australia. While I do have motoring enthusiast interests, the scope of the Bill is unlikely to impact on anything I do at this stage of my life.

### **Introduction**

#### *My Credentials*

While at one level I am just an ordinary citizen, my past experience in motor vehicle regulations is probably greater than most of those who will be make a submission to you on this matter.

I am the person who redrafted the Draft Consolidated Regulations in about 1984 so that this model legislation, that the States implemented for their in-service regulations, could be incorporated into the third edition Australian Design Rules (ADRs).

I was deeply involved in all motor vehicle regulation for a number of years and in that period and was the individual who drafted ADR 38 Trailer Baking Systems for approval by the relevant federal-state committee at that time. This was the Advisory Committee on Safety in Vehicle Design. I also drafted most of what is now the Motor Vehicle Standards (Approval to Place Used Import Plates) Guidelines 2006 – a document that very much identifies how international standards align with Australian Design Rules.

As an enthusiast I was Secretary then National President of Ferrari Club Australia, for about eight years – and for that reason was able to advise in an earlier submission how the price of Ferrari's, and probably for some other marques, were much higher than they needed to be (about \$200,000 per vehicle for Ferrari). I note that a recent Ferrari model is about \$200,000 cheaper than the past would have suggested.

#### *Background Reading*

I have read the Ministers second reading speech and am not impressed. It is full of padding and pretends to be far more than it is – this begs the question as to what the important reason for the Bill really is. I would also make the point that the important part of most regulation is in the Regulations under the Act and that the Bill is probably only needed to achieve a small number of things – like removing the need to fit a compliance plate to show that a vehicle complies with the ADRs.

There is a need to make a few changes to what was done in the past to be more consistent with Australia no longer having a significant motor vehicle manufacturing industry, and there is the opportunity to provide a simpler and more cost effective approach that arises out of this, but beyond that nothing is really changed.

The Ministers second reading speech with information about safety and injury, the need to align with international regulations etc. has been the case forever, did not need to be said and was irrelevant as a reason for amending the current Act.

I do not have access to any draft of the Bill though I am familiar with some of the content in it. I have not commented on the detail of the Bill here for that reason.

## **Discussion**

If what I hear about the direction that the new Bill is taking, I have one main concern that I would like to see addressed.

### *Full Access to International Used Car Market Needed to keep prices down*

That there is any discussion around this point is a strong indicator that both the regulator and or the government have been captured by international motor vehicle manufacturers.

The words “approved vehicles list” as a mechanism for import control appear harmless enough, but it is understood that this list is likely to be:

- a finite number of models determined by manufacturer supported retailers in Australia,
- only vehicles that are new, and
- will only be available to manufacturer related entities.

My concern round this point is that if private persons, and independent importer/retailers, do not have relatively free access to used vehicles in overseas markets, then this will effectively isolate the Australian market from the rest of the world. This in turn will allow Australian retailers to significantly markup prices compared with what than they otherwise could.

I am assuming in the above that used vehicle imports would be restricted to substantially unmodified vehicles from equivalent RHD drive markets like in the UK and Japan. Evidence from past behaviour, and common sense, indicates that retailers will take advantage of consumers if the regulations create a situation where the retailer does not have to compete with overseas markets.

It is obvious enough why manufacturer supported retailers would like to operate behind an “approved vehicle list” in terms of this minimising the cost of comprehensively supporting their model range, however it is also true that such claims are substantially baseless as it is likely that most low volume parts will be sourced on an as-needed basis from overseas – this for the reason that it only takes a few days by air to import what is needed.

Those who live remotely from Sydney and Melbourne experience the “we can get it in” story every day, and on every day items. It is for this reason that any claim to the effect that a retailer could not economically justify holding all the parts needed for all models is ingenuous.

Manufacturer supported retailers are also likely to make arguments about distinguishing what is imported privately from what they have sold – once again, an issue that is easily addressed by other than removing the need to compete.

Manufacturer supported retailers in Australia will readily be able to compete in a nominally level importation market because the discounts they can realise in shipping costs and local regulatory control costs will be greater than any private individual or small independent importer could realise

- this with the additional fact that most private individuals would rather buy locally and from a manufacturer supported retailer, even if at a small premium, for the assurance it gives them in ongoing service and potential warranty and recall matters.

It is a nonsense to say, as I've heard said that, "if the doors are opened to other than new imported vehicles there will be a rush of unsafe used vehicles into the Australia". This sort of claim is largely untrue for two reasons.

**The first reason** is that there is no real difference in the initial standard of a modern vehicle that is a from Japan or the UK, and for used vehicles no significantly different deterioration in the first few years at least – if then only for structural rust which is not hard to manage as an issue.

European and Japanese build standards, and their in-service safety, is pretty much like in Australia – and that's why the current version of most ADRs specifically nominate Economic Commissions for Europe (ECE), or Japanese standards as an equivalent alternate. That process has been going on for a long time, and when I wrote ADR 38 for Trailer Braking, more than 30 years ago, I based it on the ECE 13 – the European braking rule, there are numerous other examples.

Old rules that used to exist have already been harmonized with – the need for the external RHS rear vision mirror to be flat for example - a decision I and many others dislike as drivers and that does have safety consequences. Also gone is the special need for a fuel inlet nozzle size restrictor plate associated with the introduction of leaded fuel. The rule on cigarette lighter and ignition switch interaction is also now harmonised, and the list goes on. There has also been work to harmonize ADRs and ECE regulations more generally.

**The second reason** is that fear based claims around there being a, "rush of unsafe vehicles" are not valid. Such claims are typically based on the decades old New Zealand experience when NZ did have a bit of a rush – this for the reason that their second hand vehicle prices were very high because severe import restrictions in earlier decades had distorted the NZ market. However, while there was a rush of vehicles into NZ, the standard of those vehicles would have been on a par with, or better than, the mainly old used vehicles that were already in New Zealand.

If the new Bill did provide for relatively open access to imported used vehicles any so called "rush" in Australia's case would be very limited, would be for a short period, and would only be the market normalising itself as it did in New Zealand – but as for New Zealand, it would not be by "unsafe vehicles" in any proper use of that word as a five year old used European vehicle would be substantially identical in safety terms to an equivalent five year old vehicle already in the market in Australia – and of course, the person who is going to buy a five year old used vehicle is not going to buy a new one, so to make the point, it is possible that limiting access to the international used car market might cause the Australian fleet to actually become older and less safe.

Does New Zealand now wish they had avoided the "rush" they had decades ago, and go back to paying "100%" more for their used cars? I think not.

If Australia wants to minimise motor vehicle costs and the associated regulatory costs it should do little more than log what is coming into the country (from acceptable sources) as part of ensuring that adequate recall and fraud/rebirthing mechanisms are in place. There would have to be a light touch inspection regime to ensure that imported vehicles were as they are supposed to be. It would be appropriate to include signatories in the Registered Automotive Workshop Scheme (RAWS) as part of approach – and the States might introduce some form of upgraded "pink slip" system to support the RAWS.

I'd suggest that the above light touch approach would generate more local jobs, and keep more dollars in Australia, than a narrow manufacturer supported retailer approach as seems to be proposed.

### *How Old is Old – the 25 year rule*

The rules that applied for the decades before 1989 Motor Vehicle Standards Act were that:

- only vehicles newer than 15 years were subject to Federal ADR evidence checking prior to importation
- vehicles from 15 to 25 years of age (or 30 in some states), were checked at State level in a less rigorous way for ADR compliance, that did not involve hundreds of pages of data.
- vehicles over 25 (or 30) years of age had only to comply with basic in-service requirements at State level and were allowed to remain as a left hand drive vehicle.

If you consider the above for a moment you will understand the absurd situation that the government set up when it implemented the 1989 Motor Vehicle Standards Act with a fixed calendar date rather than a sliding 15 year period for Federal ADR evidence checking.

The original 15 year break point as now a 29 year break point (i.e. 2018 – 1989). Not only does this remove what was the old State role for older imported used vehicles, but it also cuts into even overlaps into the original 25 year “LHD allowed” break point for ancient vehicles that applied in some States.

It is a reasonable proposition that the above situation arose not so much out any genuine safety issue, but through pressure by motor vehicle manufactures and a compliant regulator as part of a deliberate push by industry to capture and control its market.

Set against the approach that existed prior to 1989, the new proposal for a break point at 25 years instead of what would have been 15 years, is extremely conservative – and in combination with a “new vehicle and manufacturer only” rule for that 25 year period means that once again, the government is acceding to the wishes of the manufacturers for no obviously good reason – and I say “government” because as I understand it, the original proposal put by the bureaucracy in its review of the Motor Vehicle Standards Act was much more flexible in relation to private and independent dealer imports.

Even if there is a legitimate view by government that unlimited numbers of 15-25 year old used cars should not be allowed to go straight through to the States for final acceptance, I can see no good safety related reason for restricting access by individuals or independent importers to used imported vehicles less than (say) 5 years old. If access was not restricted as suggested here then this would ensure that the Australian entire domestic market would properly align with related international markets – and that could only be a good thing..

### *Other Matters*

#### Luxury Car Tax

It is appreciated that there might be some difficulty in how the market would accommodate any interaction of Australian luxury car tax and vehicle depreciation across local and international markets. This pressure, if any, would be a second order effect that would still be best accommodated

by restructuring the relevant tax rules rather than implementing safety standards rules that would isolate the Australian market from the international one.

### Asbestos

There are long standing regulations around the importation of asbestos in products that have more recently been applied to imported used motor vehicles – and cases where thousands of dollars of damage has been done by officers “looking for asbestos”. This is an example of bureaucracy gone mad, and is why the law and government is regarded in a poor light by many.

Most people probably do not realise that most cars to the nineties had asbestos in their brakes and clutch materials as well as some gaskets. So far as I know there was no identifiable health issue caused by the use of asbestos in this way and there was no public concern at the time – unlike there was with cutting asbestos cement sheet and the use of asbestos lagging more generally.

While chasing asbestos in brakes is harmless enough, it is not harmless when inspectors start looking and drilling into hidden places to find asbestos that has no likelihood of causing a health issue.

In the case a Dino Ferrari and similar period vehicles, for example, that would include drilling, destroying and then presumably moving exhaust heat shields that are comprised of an asbestos sheet sealed between two aluminium layers. Asbestos in that configuration is way less dangerous than a bottle of poison with the lid on, and a lot harder to get at. Regulations need to be amended to stop this sort of stupidity.

### Import Standards – one positive comment

I understand it is that the new Bill does away with the need to replace in-service items like tyres, catalytic converters, filters and charcoal canisters as a matter of course, and regardless of the age of the imported vehicle. That old provision was part of legalistic “lets pretend the car is new” approach to compliance that unnecessarily cost some users thousands of dollars.

### **Conclusion**

The introduction of a Bill for a new Motor Vehicle Standards Act is an opportunity to both modernise the current Act now and realise regulatory cost savings now that most motor vehicle manufacture is off shore. Unfortunately what is proposed is less than optimum because:

- it ensures that international vehicle manufactures will be able to exploit Australian consumers,
- it reduces competitiveness in the market place,
- probably works against creating additional Australian jobs, and
- will probably worsen Australia’s trade deficit

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